



CALIFORNIA
DEPARTMENT OF
EDUCATION

1430 N STREET
SACRAMENTO, CA
95814-5901

JACK O'CONNELL

State Superintendent of
Public Instruction

PHONE: (916) 319-0800

July 7, 2005

Ms. Paula Higashi
Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

Dear Ms. Higashi:

The California Department of Education generally concurs with the Revised Staff Analysis in the reconsideration of the Standardized Testing and Reporting (STAR) program test claim (Case No. 04-RL-9723-01) with respect to the determination that the No Child Left Behind Act of 2002 (NCLB) imposes a federal mandate. However, we ask that staff consider clarifying information prior to the adoption of the Proposed Statement of Decision by the Commission.

The Revised Staff Analysis states that: "Staff finds, effective July 1, 2004, that administering the CAT/6 exam in grades 3 and 7 imposes a reimbursable state mandate on school districts within the meaning of article XIII B, section 6 of the California Constitution and Government Code section 17514, for all activities listed in the STAR Statement of Decision (97-TC-23) except for those that are federally-mandated (bullets 4-7) or no longer required (bullets 12-16)."

This conclusion holds both conceptual and technical difficulties because of the attempt to separate the STAR Program by examination and grade level. The attached declaration points out these difficulties.

If you have questions I may contact at (916) 445-0541 or you may contact Don Killmer, Education Fiscal Services Consultant at (916) 323-2591.

Respectfully,

A handwritten signature in dark ink, appearing to read "Gerald C. Shelton".

Gerald C. Shelton, Director
Fiscal and Administrative Services Division

Attachment: Declaration of Gerald C. Shelton

DECLARATION OF GERALD SHELTON

I, GERALD C. SHELTON, hereby declare as follows:

1. I submit this declaration in support of California Department of Education's response to the Revised Staff Analysis in the reconsideration of the Standardized Testing and Reporting (STAR) Program test claim (Case No. 04-RL-9723-01).

2. I am currently the Director of the Fiscal and Administrative Services Division in the California Department of Education and function as the chief fiscal officer of that Department. I have held that position since September 2002. Prior to that date, I served as the Administrator of Fiscal Policy Office in the California Department of Education, coordinating the Department's fiscal role in the development of the State budget through three annual budget cycles. For more than five years I have also had the responsibility for developing the Department's fiscal analysis of and reaction to issues related to state mandated costs, including cases being heard by the Commission on State Mandates. I have been employed by the California Department of Education since 1995. I received my Undergraduate and Graduate degrees from the University of California, Davis, in Economics with a specialization in the field of Public Finance. I taught in this field, as well as other areas of Economics and Public Policy, as a full-time faculty member in the Department of Economics at the California State University, Sacramento from 1980 through 1995.

3. The Standardized Testing and Reporting (STAR) Program presently includes four examinations: *California Standards Tests (CST)*; *California Achievement Tests, Sixth Edition Survey (CAT/6 Survey)*; *California Alternate Performance Assessment (CAPA)*; and *the Spanish Assessment of Basic Education, Second Edition (SABE/2)*.

4. Items 5–14 are specific analyses of the bulleted items from the Revised Draft Staff Analysis, pages SA-51 and SA-52, dated June 24, 2005.

- **Administration of the CAT/6 (or a successor national norm-referenced test) to all pupils in grades 3 and 7. (Ed. Code, §§ 60640, subds. (b), (c), 60641, subd. (a); Cal. Code Regs., tit. 5, §§ 851, 852, subd. (b), 853, and 855.) Costs associated with teacher time to administer the test are not reimbursable.**

5. Grade 7 STAR utilizes an integrated examination booklet containing the CST and CAT/6, therefore the existence of the CAT/6 at grade 7 contributes no additional activities in the administration of the STAR Program. However, grade 3 STAR utilizes two examination booklets (one for the CST and one for the CAT/6), therefore the existence of CAT/6 may contribute additional activities in the administration of the STAR Program.

- **Designation of a STAR Program district coordinator. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)**

6. Each LEA is required to designate a STAR Program District Coordinator. Since the Program consists of the CST, CAT/6, CAPA; and SABE/2, the existence of CAT/6 adds no additional activities to the designation of the Coordinator.

- **Designation of a STAR Program test site coordinator at each test site. (Cal. Code Regs., tit. 5, §§ 857-859, 865, 867, and 868.)**

7. Each LEA is required to designate a STAR Program Site Coordinator. Since the Program consists of the CST, CAT/6, CAPA; and SABE/2, the existence of CAT/6 adds no additional activities to the designation of the Coordinator.

- **Inclusion of CAT/6 test results in each pupil's record of accomplishment. (Ed. Code, §§ 60607, subd. (a), 60641, subd. (a).)**

8. The local educational agency (LEA) receives one STAR Program label per pupil to be placed in the pupil's "record of accomplishment." This label provides information on the STAR Program, including information for any of the examinations administered to the pupil. Therefore, the existence of the CAT/6 and the inclusion of the CAT/6 scores on the label do not contribute additional activities necessary for the LEA to maintain the pupil's record of accomplishment.

- **Reporting of individual CAT/6 (or successor national norm referenced test) test results in writing to each pupil's parent or guardian and to the pupil's school and teachers. (Ed. Code, § 60641, subds. (b) and (c); Cal. Code Regs., tit. 5, § 863.)**

9. Every LEA is provided a single printed STAR Program report, including results for the CST, CAT/6, CAPA, and SABE/2 for each pupil. The LEA conveys these printed reports to the parents and/or guardians. The existence of the CAT/6 and the inclusion of the CAT/6 scores do not contribute additional activities to the conveyance of the single printed STAR report.

- **Reporting of district-wide, school-level, and class-level CAT/6 test results to the school district's governing board or county office of education. (Ed. Code, § 60641, subd. (d); Cal. Code Regs., tit. 5, § 864.)**

10. Education Code Section 60641(a)(4) states, "The district wide, school-level, and grade-level results of the STAR Program in each of the grades designated pursuant to Section 60640, but not the score or relative position of any individually ascertainable pupil, shall be reported to the governing board of the school district at a regularly scheduled meeting, and the countywide, school-level, and grade-level results for classes and programs under the jurisdiction of the county office of education shall be similarly reported to the county board of education at a regularly scheduled meeting." We concur that the reporting of CAT/6 (or successor national norm referenced test) results to the governing boards may create additional activities beyond those required of other STAR Program examinations.

- **Submission of a report on the CAT/6 test to the Superintendent of Public Instruction. (Ed. Code, § 60640, subd. (j); Cal. Code Regs., tit. 5, § 862.)**

11. LEAs are not required to submit a report on the STAR Program to the Superintendent of Public Instruction as required in Education Code Section 60640(j). As of the 2004-05 administration the designated testing contractor and not the LEA have fulfilled the requirements of Education Code Section 60640(j).

- **Exemption of pupils from the CAT/6 test upon request of their parent or guardian. (Ed. Code, §§ 60615, 60640, subd. (j); Cal. Code Regs., tit. 5, § 852, subd. (a).)**

12. We concur that an exemption of pupils from the CAT/6 examination upon the request of their parent or guardian is possible. If such an exemption request includes an exemption from other examinations of the STAR Program then the CAT/6 exemption would create no additional activities. If, however, the request is for exemption solely from the CAT/6, then additional activities are imposed on the LEA.

- **Submission to the State Department of Education whatever information the Department deems necessary to permit the Superintendent of Public Instruction to prepare a report analyzing, on a school-by-school basis, the results and test scores of the CAT/6 test. (Ed. Code, § 60630, subd. (b); Cal. Code Regs., tit. 5, § 861.)**

13. Due to the advances in test reporting technology LEAs need not provide the Department with information beyond that which is collected in the pupil's examination booklet. Every pupil, even those exempted are required to complete the student information portion of the examination booklet. Therefore the existence of the CAT/6 contributes no additional activities beyond those required to implement other portions of the STAR Program.

- **Training and review of the CAT/6 test requirements as outlined in the test claim legislation and regulations by school district staff.**
- **Implementation of procedures relating the administration of the CAT/6 test.**

14. The California Department of Education recognizes that the training and review of the CAT/6 test requirements conducted by school district staff as outlined in the test claim legislation and regulations, and the implementation of procedures relating the administration of the CAT/6 test are mandated activities. However, the Department believes that training requirements specifically for the administration of the CAT/6 would be minimal.

I declare under penalty of perjury that the foregoing is true and correct and of my own personal knowledge. If called upon to do so I could and would competently so testify.

Executed this 7th day of July 2005, at Sacramento, California.


Gerald C. Shelton

PROOF OF SERVICE

Test Claim Name: Standardized Testing and Reporting (Reconsideration)
Test Claim Number: 04-RL-9723-01

I, the undersigned, declare as follows:

I am employed in the County of Sacramento, State of California, I am 18 years of age or older and not a party to the within entitled cause; my address ins 1430 N Street, Suite 2213, Sacramento, CA 95814.

On July 7, 2005, I served the attached letter of the California Department of Education in said cause, by placing a true copy thereof: (1) to claimant enclosed in a sealed envelope with postage thereon fully prepaid in the United States Mail at Sacramento, California; and (2) to state agencies in the normal pickup location at 1430 N Street, Suite 2213, for Interagency Mail Service, addressed as follows:

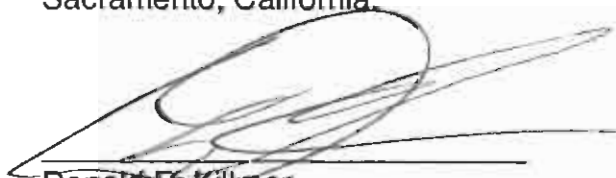
A-16
Ms. Paula Higashi, Executive Director
Commission on State Mandates
980 Ninth Street, Suite 300
Sacramento, CA 95814

B-8
State Controller's Office
Division of Accounting & Reporting
Attention: William Ashby
3301 C Street, Room 500
Sacramento, CA 95816

B-29
Legislative Analyst's Office
Attention: Marianne O'Malley
925 L Street, Suite 1000
Sacramento, CA 95814

A-15
Department of Finance
Education Unit
Attention: Jeannie Oropeza
915 L Street, 7th Floor
Sacramento, CA 95814

I declare under penalty of perjury under the laws of the State of California that the forgoing is true and correct, and that this declaration was executed on July 7, 2005 at Sacramento, California.

A handwritten signature in black ink, appearing to read 'Donald E. Killmer', is written over a horizontal line.

Donald E. Killmer
Education Fiscal Services Consultant